



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review; 2012-2013

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: The Department of Commerce (“the Department”) has received a timely request for a new shipper review (“NSR”) of the antidumping duty (“AD”) order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”). The Department has determined that the request meets the statutory and regulatory requirements for initiation. The period of review (“POR”) for this NSR is August 1, 2012, through January 31, 2013.

FOR FURTHER INFORMATION CONTACT: Alexander Montoro, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-0238.

SUPPLEMENTARY INFORMATION:

Background

The AD order on fish fillets from Vietnam was published on August 12, 2003.¹ On February 26, 2013, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214(b), the Department received a NSR request from Ngoc Ha Co.

¹ See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam, 68 FR 47909 (August 12, 2003).

Ltd. Food Processing and Trading (“Ngoc Ha”).² Ngoc Ha certified that it is a producer and exporter of the subject merchandise and that it exported, or has sold for export, subject merchandise to the United States.³

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Ngoc Ha certified that it did not export subject merchandise to the United States during the period of investigation (“POI”).⁴ In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Ngoc Ha certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation.⁵ As required by 19 CFR 351.214(b)(2)(iii)(B), Ngoc Ha also certified that its export activities were not controlled by the central government of Vietnam.⁶

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Ngoc Ha submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.⁷

Finally, the Department conducted a U.S. Customs and Border Protection (“CBP”) database query and confirmed the price, quantity, date of sale, and date of entry of the sale at

² See Letter from Ngoc Ha, “Re: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Request for New Shipper Review,” dated February 26, 2013.

³ See Id. at 1-2 and at Exhibit 1.

⁴ Id. at Exhibit 2.

⁵ Id.

⁶ Id.

⁷ Id. at Exhibit 1; See also Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record,” dated concurrently with this notice.

issue. In addition, the Department confirmed that the data on any subsequent shipments corresponds with the information provided by Ngoc Ha.⁸

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), and based on the documentation provided by Ngoc Ha, we find that the request submitted by Ngoc Ha meets the requirements for initiation of the NSR for shipments of fish fillets from Vietnam.⁹ The POR is August 1, 2012, through January 31, 2013.¹⁰ Absent a determination that the case is extraordinarily complicated, the Department intends to issue the preliminary results of this NSR within 180 days from the date of initiation and the final results within 270 days from the date of initiation.¹¹

It is the Department's usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an AD rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue a questionnaire to Ngoc Ha that will include a separate-rate section. The review of Ngoc Ha will proceed if the response provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of fish fillets.

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the

⁸ See Memorandum to the File from Scot Fullerton, Program Manager, "Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklists," dated concurrently with this notice; see also Memorandum to the File from Scot Fullerton, Program Manager, "Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record," dated concurrently with this notice.

⁹ See Memorandum to the File from Scot Fullerton, Program Manager, "Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklist," dated concurrently with this notice.

¹⁰ See 19 CFR 351.214(g)(1)(i)(B).

¹¹ See section 751(a)(2)(B)(iv) of the Act.

subject merchandise from the requesting company in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Ngoc Ha certified that it both produced and exported the subject merchandise, the sale of which is the basis for the new-shipper request for review, we will instruct CBP to permit the use of a bond only for subject merchandise which Ngoc Ha both produced and exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214, and 19 CFR 351.221(c)(1)(i).

Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

Dated: March 21, 2013.

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